98TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 98–
1st Session } { 134 Part 2

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT

JULY 1, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 2809]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2809) to establish a U.S. Fish and Wildlife Foundation, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments, stated in terms of page and line numbers of H.R. 2809 as referred to the Committee on Ways and Means, are as follows:

Page 8, strike out lines 4 through 22.

Page 8, line 23, strike out "SEC. 6." and insert in lieu thereof "SEC. 5.".

Page 9, line 7, strike out "SEC. 7." and insert in lieu thereof "SEC. 6.".

Page 9, line 16, strike out "SEC. 8." and insert in lieu thereof "SEC. 7.".

Page 10, line 13, strike out "SEC. 9." and insert in lieu thereof "SEC. 8.".

Page 10, line 18, strike out "SEC. 10," and insert in lieu thereof "SEC. 9.".

Page 10, line 21, strike out "SEC. 11." and insert in lieu thereof "SEC. 10.".

Page 11, beginning on line 3, strike out "section 6" and insert in lieu thereof "section 5".

I. SUMMARY OF THE BILL

Under present law, a charitable organization is exempt from tax if it meets certain specific Internal Revenue Code requirements (Code

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sec. 501). With certain exceptions (for example, churches), organizations are exempt only if the Internal Revenue Service makes a determination of exempt status following submission of an application on behalf of the organization (sec. 508). Contributions to the organization for use in carrying out its exempt function generally are deductible by the donor for income, estate, and gift tax purposes (secs. 170, 2055, and 2522).

Organizations maintain their tax-exempt status and eligibility to receive tax-deductible gifts only as long as statutory criteria are satisfied. An organization otherwise exempt from tax is nevertheless taxable on its unrelated business income, and certain otherwise exempt organizations may incur liability for other special taxes if specified actions are taken or certain conditions exist.

The bill, as sequentially referred to the committee following a report by the Committee on Merchant Marine and Fisheries on May 18, 1983, establishes a new organization, the National Fish and Wildlife Foundation. An amount, not to exceed $1 million over a 10-year period, is authorized to be made available from the Federal Treasury to the Foundation for administrative expenses and for a one-for-one matching program with private contributions for use in carrying out the Foundation's exempt purposes. The Foundation will not be an agency or establishment of the Federal Government.

As Amended by the committee, the bill does not address the tax status of the Foundation or the deductibility of gifts to the Foundation. See, however, the provisions of H.R. 2163, as ordered reported by the Committee on June 29, 1983, for provisions relating to these matters.

II. Explanation of the Provisions of the Bill

ESTABLISHMENT OF NATIONAL FISH AND WILDLIFE FOUNDATION

The bill, as reported by the Committee on Merchant Marine and Fisheries on May 16, 1983, and as ordered reported by the committee on June 29, 1983, establishes a National Fish and Wildlife Foundation (Foundation) as a charitable, not-for-profit organization. The Foundation is not to be considered an agency or establishment of the U.S. Government.

The general purposes of the Foundation are to encourage, accept, and manage private donations (including gifts of property) for the benefit of, or in connection with, the activities and services of the U.S. Fish and Wildlife Service, and to conduct such other activities as further the conservation and management of fish and wildlife resources of the United States, and its territories and possessions.

PRESENT LAW

1. Tax-treatment of charitable organizations

Under present law, certain charitable, religious, and educational organizations generally are not subject to Federal income tax (Code sec. 501). Generally, these organizations are not enumerated individually in the statute. Rather, an organization generally must apply to the Internal Revenue Service for a determination of exempt status (sec. 508).

Organizations otherwise exempt from tax are nonetheless subject to tax on their unrelated business income (secs. 511–514). The tax on unrelated business income generally is determined as if the organization were a taxable corporation. In general, the term unrelated business income is defined as income from a trade or business which is regularly carried on by the organization and which is not substantially related to the exempt purpose of the organization.

Exempt charitable organizations are of two broad types, public charities and private foundations. Private foundations are subject to special rules governing their operation and investments. For example, in the case of private foundations, special excise taxes are imposed on acts of self-dealing (sec. 4941), on failure to distribute income (sec. 4942), on excess business holdings (sec. 4943), for making investments that jeopardize the organization's charitable purpose (sec. 4944), and on certain expenditures (sec. 4945). Also, private foundations are subject to a 2-percent excise tax on net investment income (sec. 4940).

2. Tax treatment of donations to exempt organizations

Valuation rules and types of eligible property interests.—In general, donors of property are entitled to claim a deduction for the fair market value of property donated to charitable organizations, the United States, or a State or local government. The deduction is available in determining income, estate, and gift taxes (secs. 170, 2055, and 2522).

Certain types of gifts are subject to special restrictions, either as to the amount deductible or as to types of property interests for which a deduction is permitted. For example, one of these restrictions provides that the amount of gain that would be taxed as ordinary income if the donated property were sold cannot be deducted (sec. 170(e)(1)). Additionally, a contribution of less than the donor's entire interest in the property generally does not give rise to a deduction (income, estate, or gift tax) unless the gift takes the form of an interest in a unitrust, annuity trust, or a pooled income fund (sec. 170(f)(3)). Exceptions to the partial interest rule are provided for remainder interests in farms or personal residences, transfers of undivided portions of the donor's entire interest in the property, and qualified conservation contributions.

Qualified conservation contributions are certain real property interests donated to qualified organizations in perpetuity for—

a. The preservation of land areas for outdoor recreation by, or for the education of, the general public;

b. The protection of a natural habitat of fish, wildlife, plants, or a similar ecosystem;

c. The preservation of open space (including farmland and forest land) where such preservation is—

(1) For the scenic enjoyment of the general public, or

(2) Pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit; or

d. The preservation of an historically important land area or a certified historic structure (sec. 170(h)).

Percentage limitations on aggregate gifts.—Present law also imposes percentage limitations on the income tax deduction allowable to an individual in any year. In the case of gifts of cash and property

to private foundations, the maximum annual deduction generally is 20 percent of the individual's "contribution base," while cash gifts to other qualified charitable organizations generally is limited to 50 percent of the contribution base. An individual's contribution base is his or her adjusted gross income (net of any net operating loss carryback to the year) (sec. 170(b)(1)). Corporations may not deduct any amount in excess of 10 percent of their taxable income (determined with certain modifications) in any taxable year (sec. 170(b)(2)).

There are no percentage limitations on the amount that may be claimed as a charitable deduction in determining estate and gift tax.

REASONS FOR CHANGE

The committee agrees generally with the Committee on Merchant Marine and Fisheries regarding the establishment and tax treatment of the National Fish and Wildlife Foundation. However, the committee determined that the Foundation, like other charitable organizations, should be required to satisfy all Internal Revenue Code requirements relating to section 501(c)(3) organizations in order to maintain its tax-exempt status and to be eligible to receive tax-deductible contributions. Further, the committee decided that the tax-related provisions of H.R. 2809, as amended, should be incorporated into the revenue title of H.R. 2163.

EXPLANATION OF PROVISIONS

As amended by the committee, the bill does not address the tax status of the Foundation or the deductibility of gifts to the Foundation. See, however, the provisions of H.R. 2163, as ordered reported by the committee on June 29, 1983, for provisions relating to these matters.

EFFECTIVE DATE

The provisions of the bill are effective on the day after the date of the bill's enactment.

III. Effect of the Bill on the Budget and Vote of the Committee in Reporting the Bill

BUDGET EFFECTS

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made about the effect on the budget of this bill, H.R. 2809, as amended. The committee estimates that the provisions contained in the bill will have the following budget effects. The bill, as amended, will involve budget outlays estimated to be $10,000 per year for fiscal years 1984–88, as the bill authorizes an appropriation of $1 million to be available over a 10-year period.

The Treasury Department agrees with this statement.

VOTE OF THE COMMITTEE

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made about

the vote of the committee on the motion to report the bill, as amended. The bill, H.R. 2809, as amended, was ordered favorably reported by voice vote.

IV. Other Matters To Be Discussed Under House Rules

In compliance with clauses 3(l)(3) and (2)(l)(4) of rule XI of the Rules of the House of Representatives, the following statements are made with respect to the committee action on H.R. 2809, as amended.

OVERSIGHT FINDINGS

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the committee advises that it was as a result of the committee's oversight activities with respect to tax exemption for certain charitable organizations that the committee concluded that it is appropriate to enact the provisions contained in the bill. The committee held a public hearing on the provisions of H.R. 2163 and H.R. 2809 on June 2, 1983.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by this bill will involve budget outlays of $0.1 million per year for fiscal years 1984–88. The bill does not involve new or increased tax expenditures.

CONSULTATION WITH CONGRESSIONAL BUDGET OFFICIALS ON BUDGET ESTIMATES

With respect to subdivision (C) of clause 2(l)(3), the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as indicated in part III of this report) and submits the following letter:

U.S. Congress,
Congressional Budget Office,
Washington, June 30, 1983.

Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: In accordance with the Budget Act, the Congressional Budget Office has examined H.R. 2809, the National Fish and Wildlife Foundation Establishment Act as reported by the Committee on Ways and Means. This bill establishes a new foundation, the National Fish and Wildlife Foundation. The Foundation will not be an agency or establishment of the Federal Government, however, an amount not to exceed $1 million over a 10-year period is authorized to be made available from the federal treasury to the foundation.

The bill as amended does not provide any change in revenues or any new or increased tax expenditures.

This letter does not consider outlay effects the bill may have.
Best wishes,
Sincerely,

ROSEMARY MARCUSS
(For Alice Rivlin, Director).

OVERSIGHT BY COMMITTEE ON GOVERNMENT OPERATIONS

With respect to subdivision (D) of clause 2(l)(3), the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject matter of this bill.

INFLATIONARY IMPACT

In compliance with clause 2(l)(4), the committee states that the enactment of this bill is not expected to have an overall inflationary impact on prices and costs in the operation of the national economy.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of the rule XIII of the Rules of the House of Representatives, the committee states that the bill, as reported, makes no changes in existing law.

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